REMARKS

Claims 1, 4, 13, 19-20, 22-26, 28-36, 42-43, 45-46, 49, 51-55, 59-61, 63-64, 67-72, and 74 are amended herein in order to more particularly define the invention. The amendments were not necessitated by the claim rejections. Applicant makes no admission as to the patentability or unpatentability of the originally filed claims.

Claims 1-4, 11-26, 28-49, 51-64, and 66-74 are pending after this amendment.

35 U.S.C. § 101 Rejections

The Examiner rejected claims 60-74 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Applicant maintain that the claims as originally recited statutory subject matter, since as those of skill in the art would fully recognize that the claimed subject matter was directed to computer-implemented system and methods, executed by computers, and not abstract ideas, and not computer program listings (e.g., "software per se", as alleged by the Examiner). However, in order to advance prosecution, the claims are amended to set forth specific computer-related aspects that further make clear these features of the claims; specifically claims 60-61 by adding the phrase "executed by the computer system" to the various elements of the claims. Claims 62-74 depend from claim 61 and therefore incorporate the processor limitation of claim 61. Applicant respectfully requests that the Examiner's rejections on this ground be withdrawn.

35 U.S.C. § 102 and 35 U.S.C. § 103 Rejections

The Examiner rejected claims 1-3, 11-15, 17-23, 30, 34-38, 41-48, 51-63 and 66-74 under 35 U.S.C. § 102(e) as anticipated by Lehmeier (U.S. Patent No. 6,981,242). The Examiner rejected claims 4, 16, 39, 49, and 64 under 35 U.S.C. § 103(a) as unpatentable over Lehmeier in view of Howe (U.S. Patent No. 6,917,958). The Examiner also

rejected claim 40 under 35 U.S.C. § 103(a) as unpatentable over Lehmeier in view of

Howe in further view of Lanier et al (U.S. Patent No. RE37,431). Similarly, the Examiner

rejected claims 25-26, 28-29 and 33 under 35 U.S.C. § 103(a) as unpatentable over Leh-

meier in view of Morrison (U.S. Publication No. 2003/0030668). The Examiner also re-

jected claims 24 and 31-32 under 35 U.S.C. § 103(a) as unpatentable over Lehmeier in

view of Aleksander (U.S. Patent No. 7,080,321).

     All the above rejected claims depend directly or indirectly from claim 1. As

amended, claim 1 now recites:

> A computer-implemented user interface configuration method, for configuring the user interface of a software application and user interface of an operating system of a computer system, comprising:
> > storing a plurality of application markers, each application marker indicating a user interaction with one of the application programs, wherein the application markers include markers for the plurality of different applications;
> > storing a plurality of operating system markers, each operating system marker indicating a user interaction with the operating system;
> > determining a score as a function of the operating system markers and the application markers;
> > determining a user proficiency level with respect to the user interface of the software application and user interface of the operating system, based upon the score; and
> > automatically configuring at least one functional component of the user interface of the software application and at least one functional component of the user interface of the operating system responsive to the user proficiency level.

    Lehmeier does not disclose or suggest all of the claimed features. Lehmeier de-

termines the user skill level by "observ[ing] the number of instances that an operator se-

lects **a particular** function [sic] and compar[ing] the sum of the observed instances with

a predetermined threshold associated with the function." (7: 52-56, emphasis added).

Once the threshold is exceeded the Lehmeier deduces that the operator "has illustrated an

operational proficiency with the present application interface(s)." (8:17-18).

While observing the number of times an operator uses a particular function is helpful in determining the user's skill level with respect to that individual function, such information alone may lead to inaccurate readings of user's overall skill level. For example, an operator may repeatedly use a "particular function" incorrectly while trying to figure out the correct use of the function. After unsuccessfully trying the function several times, the operator would still not know the correct use of the function. However, Lehmeier would calculate that the operator had a high skill level, merely because the operator has already used the function numerous times, thereby exceeding Lehmeier's predetermined threshold.

Claim 1 recites a more sophisticated way of determining the operator's skill level with respect to the operating system and multiple applications typically present in a computer system. The claimed invention monitors an operator's use of several functions in a plurality of applications as well as the operator's use of the operating system, using application markers and operating system markers to store indications of such interactions. The claimed invention then determines an operator's skill level based on score that is a function of the operating system markers and the application markers. From the score, a user proficiency level with respect to operating system and software applications is determined, and both the operating system and the software application are configured based on this proficiency level. Determining proficiency levels using a score based on both operating system and software application interactions, provides both a very flexible and broad-based way of customizing the user interface, well beyond the Lehmeier's mere counting of function usage.

First, Lehmeier does not disclose "storing a plurality of application markers, each application marker indicating a user interaction with one of the application programs, wherein the application markers include markers for the plurality of different applica-

tions" as claimed. Lehmeier instead determines the operator's skill level for a particular function based on the operator's usage of that function alone. (7:52-56). Tracking the operator's usage from multiple different applications enables a broad-based assessment of the operator's skill level.

Second, Lehmeier does not disclose "storing a plurality of operating system markers, each operating system marker indicating a user interaction with the operating system" as claimed. Tracking the operator's usage of an operating system beneficially indicates whether or not an operator is a novice at using computers, and thus whether the operator will learn to use an application faster than a novice who has rarely used a computer. Lehmeier simply does not consider using operating system markers in a scoring function to determining the operator's proficiency level.

Third, Lehmeier does not disclose "determining a score as a function of the operating system markers and the application markers" and "determining a user proficiency level...based upon the score" as claimed. Using application markers and operating system markers together to determine a score beneficially enables selectively controlling (e.g., weighting) the contribution or significance of user's use of different functions within the various applications and the operating system. Determining a proficiency level based on the score then further allows a specific categorization of the user's proficiency with respect to the operating system and applications. Lehmeier by contrast does not in any way combine the usage counts from the different applications and the operating system to determine a score, and then use that score to set a proficiency level.

In sum, Lehmeier tracks the number of times an operator uses a particular function, and once the operator has used a function for a minimum number of times, Lehmeier simply assumes that the operator proficiency level has increased. In determining an operator's skill level for a particular function, Lehmeier does not track operator's use

of other application functions or operator's use of operating system. The claimed invention, unlike Lehmeier, determines the operator's skill level by combining the operator's use of multiple functions and operator's use of the operating system.

Because Lehmeier does not disclose the above mentioned limitations of the claim 1, the Applicant respectfully requests that the §102(e) rejection of claim 1 be withdrawn. Claims 2-3, 11-15, 17-23, 30, 34-38, 41-48, 51-63 and 66-74 directly or indirectly depend from claim 1 and therefore incorporate the limitations of claim 1, as well as reciting additional features.

Howe, Lanier, Morrison, and Aleksander also do not disclose using a plurality of application markers in combination with a plurality of operating system markers to determine a score, upon which the operator's proficiency level is based. Accordingly, the combination of Lehmeier and any of these references does not disclose or suggest the elements of claims 4, 16, 24-26, 28-29, 31-33, 39-40, and 49, and therefore the rejection of these claims under §103(a) should be withdrawn.

Should the Examiner wish to discuss the above amendments and remarks, or if the Examiner believes that for any reason direct contact with Applicant's representative would help to advance the prosecution of this case to finality, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,
JESSICA KAHN

Dated: June 27, 2007   By: /Robert R. Sachs/
Robert R. Sachs
Reg. No. 42,120
Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Phone: (650) 335-7276
Fax: (650) 938-5200